

NEBRASKA POWER REVIEW BOARD

BOARD POLICY NO. 21

REMITTANCE OF ASSESSMENT FUNDS AND INTEREST ON LATE PAYMENTS

I. Purpose

This policy establishes the Nebraska Power Review Board's (the Board) interpretation of when payments of the assessments levied against Nebraska's electric power suppliers are past due and interest must be charged. The pertinent language in Nebraska Revised Statute section 70-1020, states "The [electric power] supplier shall remit the amount of its assessment to the board within forty-five days after the mailing of the assessment. Any assessment not paid when due shall draw interest at a rate equal to the rate of interest allowed per annum under section 45-104.02, as such rate may from time to time be adjusted."

II. Power Review Board's Interpretation

The language in Neb. Rev. Stat. section 70-1020 requires that each power supplier operating in the State of Nebraska remit its payment to the Board within forty-five days from the date when the Board mails the assessment notice. The Board finds that payments are submitted when either delivered to the Board's offices or postmarked if delivered by mail. According to Black's Law Dictionary, the term "remit" means "To transmit (as money)." Black's Law Dictionary 1409 (9th ed., 2009). Similarly, Webster's dictionary defines "remit" as "to send (money) in payment." Webster's New World Dictionary 545 (4th ed. 2003). The statute does not require that the payment be received in the Board's offices within the forty-five days.

Based on the above definitions, it is the Board's interpretation that a power supplier remits payment when it is placed in the mail as demonstrated by the postmark, or when delivered by hand to the Board's offices. Interest will not be charged for assessments received after the due date, so long as the payment is postmarked on or prior to the due date.

The Board will collect interest from any power supplier from which payment is received after the due date, or if the postmark is after the due date. Interest will be collected from the power supplier regardless of the amount involved. The language in Neb. Rev. Stat.

section 70-1020 clearly states that late payments “shall draw interest.” The use of the word shall indicates mandatory and nondiscretionary action. The Board and its staff lack any legal authority to waive collection of interest on late payments, even when the interest involved is for a nominal amount.

Example: The Board sends out its notice of assessment on August 1. Payment would be due forty-five days later on September 15. A power supplier mails its payment check on September 12, which is received by the Board on September 17. The payment is not late, as it was remitted prior to the due date, as demonstrated by the postmark on the envelope. Thus, no interest would need to be assessed. If the envelope was postmarked on September 16 and was received on September 20, five day’s interest would be charged.

III. Calculation of Interest

The Board’s staff will determine the interest to be assessed based on the interest rate set in Neb. Rev. Stat. section 45-104.02. Interest will be calculated on a per annum basis, which will then be divided by 365. The power supplier will receive a letter from the Board’s staff notifying it of the amount of interest due.



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Approved at NPRB Board Meeting October 11, 2013.